

House Engrossed Senate Bill

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 239

SENATE BILL 1010

AN ACT

AMENDING SECTIONS 20-267, 20-1631, 20-1632 AND 20-1632.01, ARIZONA REVISED
STATUTES; RELATING TO MOTOR VEHICLE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-267, Arizona Revised Statutes, is amended to
3 read:

4 20-267. Motor vehicle liability policies; monthly basis; fee

5 A. An insurer writing or an agent or broker soliciting applications
6 for motor vehicle liability policies shall make available a monthly premium
7 payment plan on policies that insure six or fewer motor vehicles.

8 B. At the inception of a monthly premium payment plan, an insurer may
9 not require an insured to pay more than an amount equal to one and one-half
10 times the monthly premium in addition to the first month's premium. Premiums
11 for each month of coverage collected thereafter under a monthly premium
12 payment plan may be due and payable not more than thirty days before the
13 month of coverage related to that premium. An insurer may cancel or fail to
14 renew a policy for nonpayment of premium, except that a cancellation or
15 nonrenewal is not effective until the requirements of ~~sections 20-1632 and~~
16 ~~SECTION 20-1632.01~~ are met.

17 C. An insurer, agent or broker may charge a fee pursuant to section
18 20-465 that is reasonably related to the administrative expenses of the
19 monthly premium payment plan.

20 D. An insurer, agent or broker may use a premium finance company to
21 meet the requirements of this section. In financing the monthly premium
22 payment plan, at the inception of a premium finance agreement, a premium
23 finance company may not require an insured to pay more than an amount equal
24 to one and one-half times the monthly premium and the first month's premium.
25 Payments collected thereafter under the premium finance agreement may be due
26 and payable not more than every thirty days until the premium finance
27 agreement is satisfied. A premium finance company may cancel a premium
28 finance agreement for nonpayment pursuant to section 6-1415.

29 Sec. 2. Section 20-1631, Arizona Revised Statutes, is amended to read:

30 20-1631. Definition; cancellation of or failure to renew
31 coverage; limitations; limitation of liability;
32 exceptions; agents of record

33 A. In this article, unless the context otherwise requires, "motor
34 vehicle" means a licensed land, motor-driven vehicle but does not mean:

35 1. A private passenger or station wagon type vehicle used as a public
36 or livery conveyance or rented to others.

37 2. Any other four-wheel motor vehicle of a load capacity of fifteen
38 hundred pounds or less which is used in the business of transporting
39 passengers for hire, used in business primarily to transport property or
40 equipment, used as a public or livery conveyance or rented to others.

41 3. Any motor vehicle with a load capacity of more than fifteen hundred
42 pounds.

43 B. A motor vehicle used as a public or livery conveyance or rented to
44 others does not include a motor vehicle used in the course of volunteer work
45 for a tax-exempt organization as described in section 43-1201, paragraph 4.

1 C. An insurer shall not cancel or refuse to renew a motor vehicle
2 insurance policy solely because of the location of residence, age, race,
3 color, religion, sex, national origin or ancestry of anyone who is an
4 insured.

5 D. An insurer shall not issue a motor vehicle insurance policy in this
6 state unless the cancellation and renewal conditions of the policy or the
7 endorsement on the policy includes the limitations required by this section.
8 After a policy issued in this state has been in effect for sixty days, or if
9 the policy is a renewal, effective immediately, the company shall not
10 exercise its right to cancel or fail to renew the insurance afforded under
11 the policy unless:

12 1. The named insured fails to discharge when due any of the
13 obligations of the named insured in connection with the payment of premium
14 for this policy or any installment of the premium.

15 2. The insurance was obtained through fraudulent misrepresentation.

16 3. The named insured, any person who resides in the same household as
17 the named insured and customarily operates a motor vehicle insured under the
18 policy or any other person who regularly and frequently operates a motor
19 vehicle insured under the policy:

20 (a) Has had his or her driver's license suspended or revoked during
21 the policy period.

22 (b) Becomes permanently disabled, either physically or mentally, and
23 such individual does not produce a certificate from a physician testifying
24 to such person's ability to operate a motor vehicle.

25 (c) Is or has been convicted during the thirty-six months immediately
26 preceding the effective date of the policy or during the policy period of:

27 (i) Criminal negligence, resulting in death, homicide or assault,
28 arising out of the operation of a motor vehicle.

29 (ii) Operating a motor vehicle while in an intoxicated condition or
30 while under the influence of drugs.

31 (iii) Leaving the scene of an accident.

32 (iv) Making false statements in an application for a driver's license.

33 (v) Reckless driving.

34 4. The insurer is placed in rehabilitation or receivership by the
35 insurance supervisory official in its state of domicile or by a court of
36 competent jurisdiction or the director has suspended the insurer's
37 certificate of authority based on its financially hazardous condition.

38 5. The named insured, any person who resides in the same household as
39 the named insured and customarily operates a motor vehicle insured under the
40 policy or any other person who regularly and frequently operates a motor
41 vehicle insured under the policy uses a motor vehicle rated or insured under
42 the policy as a private passenger motor vehicle regularly and frequently for
43 commercial purposes.

1 6. The director determines that the continuation of the policy would
2 place the insurer in violation of the laws of this state or would jeopardize
3 the solvency of the insurer.

4 E. In addition to the authorization to fail to renew insurance
5 provided by subsection D of this section, an insurer may exercise its right
6 to fail to renew a motor vehicle insurance policy pursuant to this
7 subsection. An insurer shall provide notice of the nonrenewal to the named
8 insured as prescribed by section 20-1632 at least forty-five days before the
9 nonrenewal. A named insured who disputes the nonrenewal of the named
10 insured's policy may file an objection with the director pursuant to section
11 20-1633. An insurer shall not fail to renew more than one-half of one per
12 cent of its policies annually pursuant to this subsection. An insurer may
13 fail to renew a motor vehicle insurance policy if the named insured, any
14 person who resides in the same household as the named insured and who
15 customarily operates a motor vehicle insured under the policy or any other
16 person who regularly and frequently operates a motor vehicle insured under
17 the policy has had at any time during the thirty-six months immediately
18 before the notice of nonrenewal three or more at-fault accidents under any
19 motor vehicle insurance policy issued by this insurer in which the property
20 damage paid by the insurer for each accident which occurred prior to January
21 1, 2000 is more than one thousand eight hundred dollars. For accidents
22 occurring on or after January 1, 2000, the department of insurance shall
23 annually adjust and publish, to the nearest ten dollars, the threshold amount
24 of property damages in this subsection by the percentage change in the all
25 items component of the consumer price index for all urban consumers of the
26 United States department of labor, bureau of labor statistics. The insurer
27 shall not exercise its right to fail to renew the insurance under this
28 subsection unless the same individual has had all the accidents that make the
29 policy subject to nonrenewal under this subsection. The insurer shall not
30 exercise its right to fail to renew a motor vehicle insurance policy pursuant
31 to this subsection due to the accident record of the named insured if the
32 named insured has been insured for standard automobile bodily injury coverage
33 for at least ten consecutive years with the same insurer prior to the most
34 recent accident that makes the policy subject to nonrenewal under this
35 subsection. For purposes of this subsection, "at-fault" means the insured
36 is at least fifty per cent responsible for the accident.

37 F. The company shall not cancel or fail to renew the insurance when
38 a person other than the named insured has violated subsection D, paragraph
39 3 of this section, or fail to renew the insurance pursuant to subsection E
40 of this section due to the driving record of an individual other than the
41 named insured, if the named insured in writing agrees to exclude as insured
42 the person by name when operating a motor vehicle and further agrees to
43 exclude coverage to the named insured for any negligence which may be imputed
44 by law to the named insured arising out of the maintenance, operation or use
45 of a motor vehicle by the excluded person. The written agreement that

1 excludes coverage under a policy for a named individual is effective for each
2 renewal of the policy by the insurer and remains in effect until the insurer
3 agrees in writing to provide coverage for the named individual who was
4 previously excluded from coverage.

5 G. ~~The provisions of This article do~~ DOES not apply to any policy
6 which has been in effect less than sixty days at the time notice of
7 cancellation is mailed or delivered by the insurer unless the policy is a
8 renewal policy, or to policies:

9 1. Insuring any motor vehicle other than a private passenger motor
10 vehicle as defined in section 20-117.

11 2. Insuring the motor vehicle hazard of garages, motor vehicle sales
12 agencies, repair shops, service stations or public parking places.

13 3. Providing insurance only on an excess basis.

14 H. If a consumer purchases motor vehicle insurance coverage from an
15 agency or agent licensed in this state, the agency or agent, whichever owns
16 the policy expiration, shall remain the agent of record for that insured. In
17 the event the insurer terminates the agency's contract, the agency shall
18 continue to provide customary services to the insured. The insurer shall
19 provide the agency with a minimum degree of authority necessary to provide
20 customary services to the insured and shall provide the same level of
21 compensation for these services which were in effect prior to the termination
22 of the agency contract.

23 1. Subsection H of this section shall not apply if one or more of the
24 following conditions exist:

25 1. The agent of record has had its license suspended or revoked by the
26 department.

27 2. The agent of record is indebted to the insurer.

28 3. The insured has supplied the insurer with a written request that
29 its agent of record be changed to another agent of the insurer.

30 4. The agent of record has authorized transfer of this account to
31 another licensed agent of the insurer.

32 5. The director has determined after a public hearing that
33 continuation of this relationship is not in the best interest of the public.

34 6. The agent of record is under an exclusive contract or contract
35 requiring the agent to submit all eligible business to an insurer or group
36 of insurers under a common management.

37 J. Subsection H of this section shall not apply to any transaction in
38 which the expiration of the policies is owned by the insurer.

39 K. Notwithstanding any law to the contrary, the issuance at renewal
40 of revised policy provisions to modify an existing policy by adding coverages
41 or policy provisions, modifying coverages or policy provisions, or
42 eliminating coverages or policy provisions is not a nonrenewal or
43 cancellation of the policy if the modification of a basic coverage does not
44 eliminate the essential benefit of that basic coverage. If the modification
45 of the basic coverage eliminates the essential benefit of the basic coverage,

1 the director shall order the insurer to remove the modification from the
2 policy. This subsection does not allow the insurer, without the written
3 consent of the insured, to eliminate the basic coverages of the policy or to
4 reduce the monetary limits of any of the basic coverages of the policy that
5 were selected and agreed on. This subsection does not limit a policyholder
6 from continuing to renew uninsured or underinsured motorist coverage pursuant
7 to section 20-259.01. For the purposes of this subsection, "basic coverage"
8 means any of the following:

- 9 1. Bodily injury coverage.
- 10 2. Property damage coverage.
- 11 3. Uninsured motorist coverage.
- 12 4. Underinsured motorist coverage.
- 13 5. Medical payments coverage.
- 14 6. Comprehensive coverage.
- 15 7. Collision coverage.

16 L. For purposes of this section "fail to renew" or "nonrenewal" does
17 not include the issuance and delivery of a new policy within the same insurer
18 or an insurer under the same ownership or management as the original insurer
19 as provided in this subsection. An insurer may transfer up to one per cent
20 of its policies to an affiliated insurer within one calendar year if under
21 a policy to be transferred one or more of the insureds that are insured under
22 the policy have individually within the past thirty-six months had two or
23 more at-fault accidents UNDER ANY MOTOR VEHICLE INSURANCE POLICY ISSUED BY
24 THIS INSURER in which the property damage paid by the insurer for each
25 accident exceeded one thousand five hundred dollars or individually have had
26 three or more moving violations. Moving violations for which an insured
27 completes an approved traffic school program shall not be considered as a
28 moving violation under this section. A company shall not transfer a policy
29 if the A named insured agrees in writing to exclude as an insured a person
30 or persons ~~other than the named insured~~ who each individually meet the
31 criteria for transfer pursuant to this subsection and further agrees to
32 exclude coverage for any negligence which may be imputed by law to the named
33 insured arising out of the maintenance, operation or use of a motor vehicle
34 by such excluded person or persons. AN INSURER SHALL TRANSFER ONLY THOSE
35 INDIVIDUALS RESPONSIBLE FOR THE AT-FAULT ACCIDENTS OR MOVING VIOLATIONS, AND
36 THE EXCLUDED OR TRANSFERRED INSURED'S DRIVING RECORD SHALL NOT BE USED IN
37 DETERMINING RATES, SURCHARGES OR PREMIUMS FOR THE NONEXCLUDED OR
38 NONTRANSFERRED INSURED. The one per cent limit set forth in this subsection
39 shall not apply to transfers of policies from the original insurer to another
40 insurer under the same ownership or management as the original insurer if the
41 rates charged by the other insurer are lower than the rates charged by the
42 original insurer. No insurer shall transfer policyholders because of their
43 location of residence, age, race, color, religion, sex, national origin or
44 ancestry. Transfers by an insurer pursuant to this subsection shall not be

1 construed to permit a new unrestricted sixty day period for cancellation or
2 nonrenewal.

3 M. Except as provided in this subsection, an insurer shall not refuse
4 to renew a policy until after August 31, 1998, based on an insured's failure
5 to maintain membership in a bona fide association, until both the insurer and
6 bona fide association have complied with this subsection and shall not refuse
7 to renew any coverage continuously in effect before September 1, 1998,
8 subject to all the following:

9 1. In addition to any other reason provided in this section, an
10 insurer may refuse to renew an insurance policy issued pursuant to this
11 article if all of the following conditions apply:

12 (a) The insurer clearly discloses to the applicant and the insured in
13 the application for insurance and insurance policy that both the payment of
14 dues and current membership in the bona fide association are prerequisites
15 to obtaining or renewing the insurance.

16 (b) Any money paid to the bona fide association as a membership fee:

17 (i) Is not used by the insurer directly or indirectly to defray any
18 costs or expenses in connection with the sale or purchase of the insurance.

19 (ii) Is set independently of any factor used by the insurer to make
20 any judgment or determination about the eligibility of any individual,
21 including the member, an employee of a member or a dependent of a member, to
22 purchase or renew the insurance.

23 (c) The bona fide association has filed a certification with the
24 director verifying the eligibility of the insurer to refuse to renew an
25 insurance policy based on membership in the bona fide association.

26 2. To qualify as a bona fide association pursuant to this subsection,
27 the association shall meet all of the requirements of this paragraph. The
28 association shall file a statement with the director at least thirty days
29 before the commencement of the offer or sale of insurance as provided by this
30 subsection verifying that the association meets the requirements of this
31 paragraph. The association shall update the filing required by this
32 paragraph at least thirty days before the effective date of any material
33 change in the information contained in the statement, and shall file a
34 separate notice with the director if the insurance described in the statement
35 is no longer available through the association. The statement shall include
36 the following information:

37 (a) That the association has been in active existence for at least
38 five consecutive years immediately before the filing of the statement.

39 (b) That the association has been formed and maintained in good faith
40 for purposes other than obtaining or providing insurance and does not
41 condition membership in the association on the purchase of insurance.

42 (c) That the association has articles of incorporation and bylaws or
43 other similar governing documents.

44 (d) That the association does not condition membership in the
45 association or set membership fees on the eligibility of any individual,

1 including the member, an employee of the member or a dependent of the member,
2 to purchase or renew the insurance, or on any factor that the insurer could
3 not lawfully consider when setting rates.

4 (e) That the association has a relationship with a specific insurer
5 or insurers and identifies the insurer or insurers.

6 3. Membership fees collected by the bona fide association are not
7 premiums of the insurer that issued the coverage unless the bona fide
8 association:

9 (a) Uses any portion of the membership fees directly or indirectly to
10 defray any costs or expenses in connection with the sale or purchase of the
11 insurance.

12 (b) Sets or adjusts membership fees for any member of the bona fide
13 association based on any factor used by the insurer that issues the insurance
14 to make any judgment or determination about the eligibility of any
15 individual, including the member, an employee of the member or a dependent
16 of the member, to purchase or renew the insurance.

17 4. If the membership fees constitute premiums pursuant to paragraph
18 3 of this subsection, an insurer shall not refuse to renew a policy as
19 otherwise permitted by this subsection.

20 Sec. 3. Section 20-1632, Arizona Revised Statutes, is amended to read:

21 20-1632. Cancellation, nonrenewal and reduction of limits for
22 reasons other than nonpayment of premium; notices to
23 insured; refund of unearned premium

24 A. A notice by the insurer to the policyholder of nonrenewal,
25 cancellation or reduction in the limits of liability or coverage FOR REASONS
26 OTHER THAN NONPAYMENT OF PREMIUM shall be mailed to the named insured by
27 certified mail or United States post office certificate of mailing at least
28 ten days prior to the effective date of such nonrenewal, cancellation or
29 reduction in limits of liability or coverage, except that notice of
30 nonrenewal under section 20-1631, subsection E shall be mailed at least
31 forty-five days before the effective date of the nonrenewal. Such notice
32 shall include or be accompanied by all of the following:

33 1. A statement in writing of the specific facts which constitute the
34 reasons, consistent with section 20-1631, for such action by the insurer and
35 a notice indicating the named insured's right to complain to the director of
36 the insurer's action within ten days after receipt of the notice by the
37 insured.

38 2. Notice of the insured's possible eligibility for insurance through
39 the automobile assigned risk plan, and the notice shall state that all
40 information included in the notice is given pursuant to this article.

41 3. A refund of unearned premium, except a premium that has been
42 financed or remitted to the insurer by a company that is affiliated with the
43 insurer and that bills and collects premiums on the insurer's behalf. In the
44 case of a notice of cancellation or nonrenewal of a policyholder whose
45 premium payment is collected and remitted by the insurer's affiliate, the

1 insurer shall refund any unearned premium to the policyholder within ten days
2 after the policy cancellation. For the purposes of this paragraph,
3 "affiliate" or AND "affiliated" have the same meaning prescribed in section
4 20-481.

5 B. Failure of the insurer to comply with subsection A of this section
6 shall invalidate any cancellation, nonrenewal or reduction in limits of
7 liability or coverage, ~~except a cancellation or nonrenewal for nonpayment of~~
8 premium.

9 C. If a premium has been financed, a refund of unearned premium shall
10 be returned as provided in section 6-1416.

11 Sec. 4. Section 20-1632.01, Arizona Revised Statutes, is amended to
12 read:

13 20-1632.01. Cancellation or nonrenewal for nonpayment of
14 premium; grace period; notice of cancellation;
15 discrimination; definition

16 A. In motor vehicle insurance policies there shall be a provision that
17 the policyholder is entitled to a minimum grace period of seven days for the
18 payment of any premium due except the first PAYMENT, during which grace
19 period the policy shall continue in full force. For the purposes of this
20 subsection, an initial payment on the renewal of a policy is not a first
21 payment of premium.

22 B. For any motor vehicle insurance policy cancelled or nonrenewed for
23 nonpayment of premium by the insurer after the grace period, the insurer must
24 mail a notice of cancellation or nonrenewal to the policyholder at his THE
25 POLICYHOLDER'S last address on record with the insurer by first class mail.
26 The cancellation or nonrenewal is effective on the date the notice is mailed
27 to the policyholder. The notice shall include or be accompanied by a
28 statement in writing of the reasons for such action by the insurer and a
29 notice indicating the named insured's right to complain to the director of
30 the insurer's action within ten days after receipt of the notice by the
31 insured. AN INSURER SHALL NOT CANCEL OR NONRENEW A MOTOR VEHICLE INSURANCE
32 POLICY PURSUANT TO THIS SECTION BECAUSE OF THE NAMED INSURED'S LOCATION OF
33 RESIDENCE, AGE, RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, MARITAL
34 STATUS, NATIONAL ORIGIN, ANCESTRY OR DRIVING RECORD.

35 C. ~~The provisions of~~ This section ~~do~~ DOES not apply to policies being
36 cancelled pursuant to section 6-1415. The grace period provided in such
37 policies shall be satisfied by the ten day notice of intent of the premium
38 finance company to cancel the insurance contract unless the default is cured
39 within the ten day period.

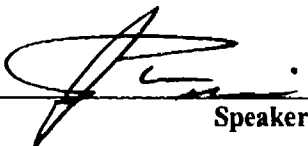
40 D. For the purposes of this section, "grace period" means the period
41 of time after the premium due date during which the policy remains in force
42 without penalty even though the premium due has not been paid.

THIS BILL HAVING REMAINED WITH THE GOVERNOR FIVE DAYS, SUNDAY
EXCLUDED, AND THE LEGISLATURE BEING IN SESSION, IT HAS BECOME A
LAW THIS 25TH DAY OF APRIL, 2001.

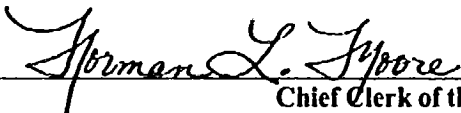
Passed the House April 10, 2001,

by the following vote: 48 Ayes,

5 Nays, 7 Not Voting



Speaker of the House

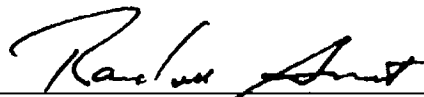


Chief Clerk of the House

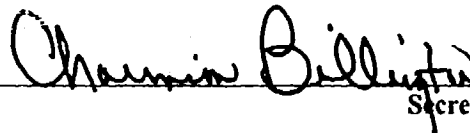
Passed the Senate February 12, 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1010

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 01,

by the following vote: 20 Ayes,

10 Nays, 6 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of April, 20 01,

at 4:00 o'clock P M.

[Signature]
Secretary to the Governor

APPROVED THIS _____ day of

_____, 20 _____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25 day of April, 20 01,

at 4:45 o'clock P M.

[Signature]
Secretary of State

S.B. 1010